
Introduced by Senator Leno

February 18, 2014

An act to amend Section 1473 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1058, as introduced, Leno. Writ of habeas corpus.

Existing law authorizes every person unlawfully imprisoned or restrained of his or her liberty, under any pretense, to prosecute a writ of habeas corpus for specified reasons, including when false evidence that is substantially material or probative on the issue of guilt or punishment was introduced against the person at any hearing or trial relating to his or her incarceration.

This bill would require, for purposes of these provisions, false evidence to include opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have been undermined by later scientific research or technological advances.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1473 of the Penal Code is amended to
2 read:
3 1473. (a) Every person unlawfully imprisoned or restrained
4 of his *or her* liberty, under any ~~pretense whatever~~, *pretense*, may
5 prosecute a writ of habeas ~~corpus~~, *corpus* to inquire into the cause
6 of ~~such~~ *his or her* imprisonment or restraint.

1 (b) A writ of habeas corpus may be prosecuted for, but not
2 limited to, the following reasons:

3 (1) False evidence that is substantially material or probative on
4 the issue of guilt or punishment was introduced against a person
5 at ~~any~~ a hearing or trial relating to his *or her* incarceration; or

6 (2) False physical evidence, believed by a person to be factual,
7 probative, or material on the issue of guilt, which was known by
8 the person at the time of entering a plea of guilty, which was a
9 material factor directly related to the plea of guilty by the person.

10 (c) Any allegation that the prosecution knew or should have
11 known of the false nature of the evidence referred to in subdivision
12 (b) is immaterial to the prosecution of a writ of habeas corpus
13 brought pursuant to subdivision (b).

14 (d) ~~Nothing in this~~ This section shall *not* be construed as limiting
15 the grounds for which a writ of habeas corpus may be prosecuted
16 or as precluding the use of any other remedies.

17 (e) *For purposes of this section, “false evidence” shall include*
18 *opinions of experts that have either been repudiated by the expert*
19 *who originally provided the opinion at a hearing or trial or that*
20 *have been undermined by later scientific research or technological*
21 *advances.*